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ROSS JOHNSON
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September 2, 2003

HAND DELIVERED

Liane Randolph, Chair
Phillip Blair, Commissioner
Sheridan Downey, Commissioner
Pamela Karlan, Commissioner
Thomas Knox
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Re: Demand for Immediate Prosecution of Violations of Proposition 34 by Lt. Gov. Cruz Bustamante

Dear Chairperson Randolph and Commissioners:

Since declaring his candidacy for Governor in the upcoming recall election and establishing a committee for that election, Lt. Governor Cruz Bustamante has solicited and received in excess of \$1 million into his Lt. Governor committee with the express purpose and intent of transferring those funds into his gubernatorial campaign in violation of Proposition 34's contributions limits.

Specifically, on or about August 22, 2003, the Lt. Governor received a contribution of \$300,000 from the Sycuan Band of the Kumeyaay Nation into his Lt. Governor committee. On or about August 27, 2003 the Lt. Governor received two contributions, one for \$100,000 from the Northern California Carpenter's union, and one for \$200,000 from the American Federation of State, County and Municipal Employees union. Finally, on or about August 28, 2003, the Lt. Governor received \$500,000 from the Pechanga Band of Mission Indians.

As you know, Proposition 34 imposes a limit of \$21,200 on contributions to candidates - for Governor.

Chairperson Randolph
September 2, 2003
Page 2

It has been widely reported that the Lt. Governor intends on transferring the newly raised funds into his campaign committee for Governor apparently to avoid the contribution limits of Proposition 34. Copies of some of these news articles are enclosed with this letter.

It is also clear that the donors fully intend on having their contributions transferred in this manner. In fact, the \$300,000 contribution from the Sycuan tribe was reported by the tribe with the following stated purpose: "Cruz Bustamante, Governor." Press reports also indicate that the other donations were clearly meant to support the Lt. Governor's run for Governor in the recall.

Late last week, the Commission issued a press release stating that "the commission has advised that state candidates may not solicit contributions into a pre-Proposition 34 committee for the purpose of using those funds in a post-Proposition 34 election." Any other interpretation renders the contribution limits of Proposition 34 meaningless and would mean that all other candidates (134 others) are subject to contribution limits, while only one, the Lt. Governor, is not.

No statute could be valid with such inequitable application.

The Commission has authority under the Act to obtain an injunction to enjoin violations of the Act and to compel compliance with the Act. (Gov. Code section 91003). I urge the Commission to not simply stand idly by and witness the single greatest violation of campaign finance laws ever seen in California.

I ask that you take immediate action to prevent the transfer of these contributions and to prohibit the further solicitation of contributions by the Lt. Governor in violation of Proposition 34. If the Commission fails to act immediately, I will proceed with a civil action under Section 91003 on behalf of the people of the State of California.

I urge you to consider this matter at your Commission meeting on September 3, 2003.

Sincerely,



ROSS JOHNSON
Senator, 35th District

<http://www.latimes.com/news/local/la-me-cruz27aug27.1.4102269.story?coll=la-headlines-california>

THE RECALL CAMPAIGN / DISPATCHES

CRUZ BUSTAMANTE

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A legal loophole allows him to exceed the limits on campaign contributions. The conduit is his 2002 reelection committee.

By Matea Gold
 Times Staff Writer

August 27, 2003

Lt. Gov. Cruz Bustamante is avoiding state restrictions on recall campaign contributions by asking donors to give money to his 2002 reelection campaign committee, which is not subject to the same cap on donations that new campaigns must observe.

Bustamante has raised nearly \$400,000 in the last month in unlimited contributions to his old campaign committee — money that he can roll over into his recall campaign. The move circumvents a new law that restricts donations to candidates to \$21,200.

The lieutenant governor's campaign estimates that it can transfer as much as \$4 million this way because of an accounting loophole created by the state Fair Political Practices Commission.

Meanwhile, Bustamante is raising money under the current contribution limits for his "Yes on Bustamante" campaign and a separate committee advocating defeat of the recall.

Critics call his tactic an end-run around campaign finance rules established by Proposition 34, the ballot initiative voters approved in 2000.

"I think it's further proof that California's system of campaign financing is a joke," said Jim Knox, executive director of California Common Cause. "It renders contribution limits meaningless."

Bustamante campaign strategist Richie Ross said Tuesday that the lieutenant governor is merely following the law.

"We didn't write Prop. 34; we're obeying it," said Ross, noting that the current system also allows

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affect
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wealthy candidates like Arnold Schwarzenegger to spend unlimited amounts of money on their campaigns.

Proposition 34 does not allow candidates to collect campaign money after an election unless they have outstanding debt. However, because Bustamante's 2002 reelection committee was established before the measure took effect, it is not subject to that rule. Bustamante can keep raising money for his old campaign committee until nine months after he leaves office, the date by which he is required to close the committee.

Proposition 34 also states that "when a candidate has money, you have to let them use it," said Mark Krausse, executive director of the Fair Political Practices Commission, which interprets and enforces the state's campaign laws.

In June 2001, the commission ruled that candidates can transfer money from their old committees to new ones through a process called attribution. Under that system, money can be rolled over in increments of up to \$21,200 by considering it a donation in that amount from a previous contributor to the old committee.

Krausse explained the maneuver as "an accounting procedure."

But Robert Stern, president of the Center for Governmental Studies, called the commission's ruling "a nutty interpretation."

"The FPPC is supposed to be there to interpret the law liberally, to ensure the law is carried out," Stern said. "Now limits don't mean anything."

The contribution exception also applies to Gov. Gray Davis and state Sen. Tom McClintock (R-Thousand Oaks), who both have campaign committees from the 2002 election. However, the governor, as the target of the recall, is not subject to any contribution limits. McClintock has not been raising money for his old committee, and deputy campaign director John Stoos said McClintock does not plan to take advantage of the maneuver.

Bustamante is exploiting the exception to the new contribution limits. Campaign finance filings show that he is steering smaller donations to his recall campaign committee, which has so far raised \$473,400, while large contributions are going to his 2002 reelection committee. On Aug. 12, he transferred \$100,000 from the old committee to the new one.

Bustamante has been raising money for his 2002 campaign committee all year, collecting \$402,275 from March through July from unions, Indian tribes and corporations.

But the pace quickened after the recall qualified for the ballot on July 24. The next day, Gambro Healthcare, a medical technology company based in Aliso Viejo, gave Bustamante \$10,000. In just a month, he raised \$390,250 for his old committee.

The largest sums have come from tribes with casino interests, which have been frequent contributors to Bustamante's campaigns. On July 28, the Viejas tribe in Alpine gave \$35,000 to his 2002 committee. Last Friday, the Sycuan Band of the Kumeyaay Nation, based in El Cajon, contributed \$300,000. A spokesman for the tribe told The Times that Bustamante's campaign instructed them to place the money in the old account.

Other large contributors to Bustamante's 2002 reelection committee include the Southwest Regional

Council of Carpenters, which donated \$15,000 on July 28, and the California Teachers Assn., which gave \$10,000 on July 30.

The Sycuan Band and the carpenters union also donated the \$21,200 maximum to Bustamante's recall campaign committee.

A third committee controlled by Bustamante called "Californians for Stability — No on the Recall" is considered a ballot measure committee and is not subject to limits on donations. So far, that campaign has only raised \$31,800.

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CNBC News Transcripts

SHOW: Capital Report (9:00 PM ET) - **CNBC**

August 27, 2003 Wednesday

LENGTH: 1634 words

HEADLINE: Lieutenant Governor **Cruz Bustamante** talks about the unique position he is in

ANCHORS: ALAN MURRAY

BODY:

ALAN MURRAY, co-host:

And coming up next, our guest is in an unprecedented position. He is California Lieutenant Governor **Cruz Bustamante**. He is running for governor but says he doesn't want to win. He wants the recall to fail. That's got to be a tough way to run a campaign, yet he is, at least in one poll, leading Arnold Schwarzenegger. Can he pull this all off? Mr. Bustamante joins us now from Sacramento.

Lieutenant Governor Bustamante, thanks very much for being with us.

Lieutenant Governor **CRUZ BUSTAMANTE** (Democratic Gubernatorial Candidate, California): Thank you, Alan. I probably would disagree with your characterization, but I really appreciate being on your show.

MURRAY: You mean you do want to win.

Lt. Gov. BUSTAMANTE: I think that the recall is bad for California. It's bad for the institution.

MURRAY: Well...

Lt. Gov. BUSTAMANTE: I think it's also something in which we could enter an era of perpetual politics. I mean, I know people right now, Alan, that are talking about recalling the very next governor. It's bad. But, you know, this is not a place where you're in a situation where you think something ought to be. The voters have put this on the ballot. There's going to be a decision made.

MURRAY: Well, let me ask...

Lt. Gov. BUSTAMANTE: I believe that I'm in competition with Arnold, Tom and Peter, and I think that the voters clearly know that there's going to be two votes, and they're going to have to make sure and vote on both the recall and the successor candidate.

MURRAY: But let me--this..

Lt. Gov. BUSTAMANTE: And I am going to say that I am the top Democratic candidate.

MURRAY: Well, this gets very confusing to those of us who don't spend all our time out in California. Let me ask you a very simple question: Who is in a better position to lead California out of its current crisis, you or Gray Davis?

Lt. Gov. BUSTAMANTE: I think I have to respond to that by saying this, Alan, is that the

voters clearly understand that this is a serious issue. And for those people who don't think that voters are very smart, those politicians aren't around in politics very long. But what they've done is with this particular issue is they've put everything on the table. They've basically said, 'We want to hear from you, Governor, what you've got to say, and we're going to make an assessment about you. And then all those folks who are wanna-be candidates for governor, all of those who think that they want to be the governor, we want to hear all of your ideas.' That's going to be a completely separate vote. I'm in competition with Arnold and Tom and Peter...

MURRAY: Well..

Lt. Gov. BUSTAMANTE: ...and they're going to assess me based on my ideas.

MURRAY: Well, let me try this a different way

Lt. Gov. BUSTAMANTE: Sure.

MURRAY: What would you do differently? How would the government of the state be different if you were governor instead of Gray Davis?

Lt. Gov. BUSTAMANTE: I really believe that it's going to be a campaign that's going to be based on issues, and that's why when I announced...

MURRAY: OK.

Lt. Gov. BUSTAMANTE: ...when I announced my campaign, the first thing I did was besides making an announcement saying I was opposed to the--to the car tax and what I believe is an unfair burden of a tripling of a car tax on working families in California, I gave a very specific proposal on how we could do that. I gave not just a general concept, not just about my position. Anybody can do that. I gave a very specific proposal how to resolve it. And if they couldn't get two-thirds vote in the Legislature, I also challenged the Legislature and show them exactly how they could do it with a majority vote, putting that on the governor's desk within the next few days so that we can move that.

So in addition, just last week I presented a proposal, an across-the-board proposal that highlighted how we could make sure we could restore education funding, we could make sure that we could rid ourselves of this car tax issue, as well as close the budget hole. No one else...

MURRAY: So the big difference...

Lt. Gov. BUSTAMANTE: No one else has submitted that kind of a proposal, and no one has been that specific.

MURRAY: So the big specific difference we know about between you and the governor is on the car tax?

Lt. Gov. BUSTAMANTE: No. What I'm saying is that--I'm talking about what I would do. You're trying to ask me about things that I would do...

MURRAY: Well, here's..

Lt. Gov. BUSTAMANTE: ...and what I'm trying to do is I'm trying to respond to you very specifically.

MURRAY: Here's my point, Lieutenant Governor.

Lt. Gov. BUSTAMANTE: Sure. Sure, sure.

MURRAY: If a majority of people in California say, 'We don't think Gray Davis should be governor anymore'...

Lt. Gov. BUSTAMANTE: Right.

MURRAY: ...then why should he be replaced with somebody who's been his lieutenant governor and agrees with most of what he has done over the last two years?

Lt. Gov. BUSTAMANTE: Well, that's why I'm trying to explain that everything that I've been doing every single week

MURRAY: Yeah

Lt. Gov. BUSTAMANTE: ...is coming up with an idea, a very specific idea, an idea of how to fix certain things that are wrong with--what I believe are wrong with California, and I think it's in making sure that I present that specific proposals. The voters know...

MURRAY: Yeah.

Lt. Gov. BUSTAMANTE: ...that they're going to have two votes and that each one of them is going to have to vote for on the recall as well as on the successor candidate.

MURRAY: One of..

Lt. Gov. BUSTAMANTE: And I believe that they understand that since I'm the leading Democrat here and I have certain kinds of values and I have a certain perspective that that's going to be somebody they're going to want to vote for. But more importantly, I'm providing real-deal tough-love proposals that deal with things.

MURRAY: Yeah. One of the things you have going for you is the fact that the Republicans are, at the moment, splitting their vote between Arnold Schwarzenegger and principally Tom McClintock and Peter Ueberroth. That's got to work to your advantage tremendously.

Lt. Gov. BUSTAMANTE: You know, I'm not going to talk about what their strategies ought to be. I'm going to focus on mine. But you know, Tom McClintock and I have always been underestimated our entire political careers. And so whoever comes out, my ideas and my campaign is to focus on what I believe to be the very best ideas, and that's what I'm going to be presenting to the voters of this state.

MURRAY: You are benefiting from what's being described as a large loophole in the campaign finance laws out there. You got a \$300,000 contribution from one of the Indian tribe with casino interests, which was given to your 2002 campaign, but apparently under the law in California you can use that money for the recall campaign. Is that right?



Lt. Gov. BUSTAMANTE: And I think that that's key, 'under the laws of the state of California We know that it's very, very important that no matter what takes place and whatever happens with respect to political reforms, we need to make sure that we're in total compliance. My attorneys have clearly worked with the Fair Political Practice Commission, that entity in California that basically determines exactly how things should work. We have opinions from both them as well as my attorneys making sure that everything we do is scrupulously done properly. So we play by the rules. And whatever the rules are, that's the

way we're going to work.

MURRAY: You know, we had Larry Flynt on this show not too long ago. He was talking about his plan to deal with the state's budget crisis by having gaming statewide. Now I think this Indian tribe probably wouldn't be too happy with that proposal. But what do you think about statewide gaming as a way of raising revenue?

Lt. Gov. BUSTAMANTE: The voters of this state allowed the state of California to have certain kind of gaming as well as giving the authority and the ability for tribal governments to have a similar kind of gaming activity. This was voted on by the people of the state of California, not just once, but twice. Anybody who would like to do the same thing has to go through the same process.

MURRAY: All right. Lieutenant Governor **Cruz Bustamante**, thank you very much for being with us on CAPITAL REPORT.

Lt. Gov. BUSTAMANTE: My pleasure, Alan. Thank you.

MURRAY: It's going to be a wild five or six weeks you've got ahead of you.

Lt. Gov. BUSTAMANTE: You know, I think so, but I think that the voters are very serious about this. They're not going to give anybody a pass.

MURRAY: Right.

Lt. Gov. BUSTAMANTE: Everybody's going to have to come up with specific proposals. And primarily, they know there's going to be two votes, and those two votes are going to be very important both on the recall and successor candidates. And I just want to make sure that people know that as the primary Democratic candidate I'm going to make sure to uphold the values of defending a woman's right to choose, protecting our environment and making sure that we have good quality public education in California.

MURRAY: All right. Thanks very much for being with us.

Lt. Gov. BUSTAMANTE: My pleasure.

MURRAY: And coming up next, a CAPITAL REPORT exclusive: The wife of Governor Gray Davis speaks out. Hear why Sharon Davis is saying no to the recall, but yes to Bustamante. Will her husband follow suit? I'll ask California's first lady.

Then later, shipping wine from state to state. If Judge Kenneth Starr has his way, you'll be able to do it all over America. He'll explain.

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(Announcements)

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Bustamante rakes in \$500,000 from tribe But some ask whether he's bending the rules

Mark Fainaru-Wada, Mark Martin, Chronicle Staff Writer
Saturday, August 30, 2003

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URL: <http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2003-08-30/MN25172.DTL>

Lt. Gov. Cruz Bustamante reported Friday receiving a \$500,000 contribution from a Riverside County Indian tribe as he faces questions about his use of a campaign finance loophole that may allow him to skirt new political spending laws.

The contribution from the Pechanga Band of Mission Indians, which operates a successful casino, is the first of what is expected to be a flood of campaign cash from casino-operating Indians to various candidates and committees in the recall election.

"I think it's possible the tribes will participate in the \$10 million range," said Michael Lombardi, chairman of the gaming commission of the Augustine Band of Mission Indians.

New campaign laws have complicated recall fund raising. Contributors are allowed to give a maximum of \$21,200 to candidates. But groups can form independent committees and spend an unlimited amount for a candidate as long as they don't work directly with the candidate.

Bustamante believes he has found another way to raise money. The lieutenant governor is using a campaign committee that predates Proposition 34, which enacted the new laws. Bustamante says the old committee can raise money with no contribution caps and then shift that money into his new committee.

Bustamante's campaign did not return calls for comment Friday. But the lieutenant governor defended the fund raising this week in an interview on

CNBC.

"My attorneys have clearly worked with the Fair Political Practice Commission . . ." he said, referring to the panel that sets fund-raising guidelines. "We have opinions from both of them as well as my attorneys making sure that everything we do is scrupulously done properly. So we play by the rules. And whatever the rules are, that's the way we're going to work."

In a press release this week, the FPPC said it had generally advised candidates they couldn't "solicit contributions into a pre-Prop. 34 committee" -- such as Bustamante's 2002 committee -- "for the purpose of using those funds in a post-Prop. 34 election." The statement emphasized that the commission was not commenting on individual candidates.

The commission also has recommended legislation to impose the \$21,200 limit on contributions to those pre-existing committees.

"This is unprecedented for the FPPC to put out a press release like this," said Jim Sutton, an election law attorney in San Francisco. " . . . At the very best, (Bustamante) is pushing the bounds of the campaign finance law."

Prop. 34 left an opening for candidates to make use of committees that remained open from previous runs for office. The idea, said Sutton, was for those committees primarily to be used for a one-time transfer of leftover funds but not to raise new money for new campaigns.

Bustamante's 2002 committee, however, has recently taken in more than \$1.1 million, including contributions this week from the Pechanga Indians and \$300, 000 from the Sycuan Band of the Kumeyaay Nation.

Bustamante's lieutenant governor committee recently also took in \$200,000 from the American Federation of State, County and Municipal Employees AFL-CIO and \$100,000 from the Northern California Carpenters Regional Council.

"It seems as though we have Bustamante's campaign saying we are permitted by law to raise funds in excess of contribution limits into a previously established account and use those for the purposes of running for office in 2003, an election that clearly falls into the scope of Prop. 34," said Paul Ryan, the political reform project director for the Center for Governmental Studies in Los Angeles.

'ACCOUNTING TRICK'

"It seems to be an accounting trick that's definitely not within the spirit of Prop. 34," Ryan said.

Friday's reported contribution appears to be just the beginning for Bustamante, who has made numerous appeals to tribes for money in the last month as he struggles to keep up with fund-raising heavyweights Gov. Gray Davis and multimillionaire actor Arnold Schwarzenegger. Bustamante is campaigning against the recall but asking voters to support him in case Davis, his fellow Democrat, is voted out of office.

Even with the large contributions to his lieutenant governor committee, Bustamante still lags well behind Davis and Schwarzenegger in raising money. According to campaign finance reports cumulative through last Saturday, Davis has raised \$4.3 million in his battle to fight off being ousted from office. Schwarzenegger, with \$2 million coming out of his own pockets, has raised \$3.1 million.

Prop. 34 allows candidates to give unlimited sums of their own money to their campaigns, and Davis is not subject to the contribution caps because he's not considered a candidate.

The money gap may change in the next few weeks however, as tribes work to help Bustamante.

BIG SPENDERS IN SACRAMENTO

Tribes have become some of the biggest spenders in Sacramento as they work to build or expand casinos. Their money is considered a key source for candidates who will need

millions to mail brochures to voters and buy advertising time on radio and television.

Lombardi said his tribe had met with other tribes and expects to spend money for Davis against the recall but also on Bustamante and possibly state Sen. Tom McClintock, R-Thousand Oaks. All three politicians met with gaming tribes Thursday in Sacramento in an effort to garner support for their recall campaigns.

Many tribes will help Davis fight the recall, but Bustamante will likely receive the most help, said Lombardi, noting that the lieutenant governor had been a longtime advocate of tribal sovereignty.

"If you held a popularity contest, Mr. Bustamante would win," he said.

Most tribes have not decided how they will divvy up campaign funding. The powerful Viejas Band of Kumeyaay Indians, who run a casino east of San Diego, are expected to announce their spending plan Tuesday; others may begin giving as soon as next week.

Money coming in

-- Pro-recall committees: \$10,000.

-- Anti-recall committees not controlled by candidates: \$121,000, including \$50,000 from the American Federation of State, County and Municipal Employees

PAC.

-- Committees controlled by Lt. Gov. Cruz Bustamante: \$800,000, including \$500,000 from the Pechanga Band of Mission Indians, \$200,000 from the American Federation of State, County and Municipal Employees AFL-CIO and \$100,000 from the Northern California Carpenters Regional Council.

-- Committees controlled by Arnold Schwarzenegger: \$168,200, including \$41,200 combined from Silicon Valley venture capitalist Ray Lane and his wife, Stephanie.

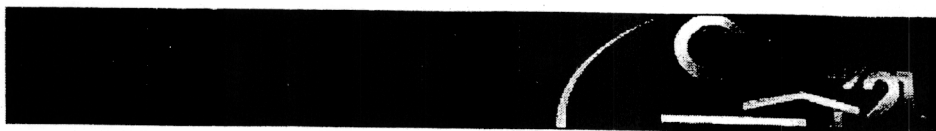
Committees controlled by Arianna Huffington: \$27,000.

Committees controlled by Peter Ueberroth: \$53,000.

Committees controlled by State Sen. Tom McClintock: \$10,000.

E-mail the writers at mfainaru-wada@sfgchronicle.com and markmartin@sfgchronicle.com.

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This story is taken from Recall at sacbee.com.

Bustamante receives \$500,000 from Indians; FPPC has doubts

By Alexa H. Bluth -- Bee Capitol Bureau - (Published August 30, 2003)

A day after meeting with tribal gambling interests, Lt. Gov. Cruz Bustamante on Friday reported receiving a \$500,000 campaign donation from a tribe -- the second six-figure contribution he has taken from Indians for the Oct. 7 recall election.

But it remains a matter of legal interpretation whether the \$500,000 check Bustamante received Thursday from the Pechanga Band of Mission Indians and other large contributions he has received were proper donations under state campaign finance rules.

The state's Fair Political Practices Commission issued a statement late Thursday questioning the Democrat's practice of collecting large donations in an old campaign account for his recall efforts.

Seizing on what some believe is a loophole in the new Proposition 34 campaign finance laws, Bustamante has collected \$1.1 million in the past week from Indian tribes and unions in his 2002 lieutenant governor's account, which he plans to transfer to the committee raising money for his recall bid.

Bustamante's campaign aides have contended the donations are legal, despite the new law's provision limiting donations to \$21,200 per donor, because his old account was formed before Proposition 34 went into effect.

It also has allowed Bustamante, who is not personally wealthy, to bring in large donations from interest groups with deep pockets to challenge Republican Arnold Schwarzenegger, who has poured \$2 million of his personal money into his campaign and is expected to contribute more.

Bustamante took the Pechanga money the same day he met with representatives of the California Nations Indian Gaming Association. He has denied promising tribes anything specific in exchange for campaign contributions but said he was open to increasing the number of allowable slot machines in tribal casinos.

A week ago, the 2002 account took in \$300,000 from the Sycuan Band of the Kumeyaay Nation. An additional \$300,000 has come in from two labor unions -- the Northern California Carpenters Regional Council and the American Federation of State, County and Municipal Employees.

But the commission that polices campaign finance activity said Thursday that although state law does not explicitly bar it, the panel "has advised that state candidates may not solicit contributions into a pre-Proposition 34 committee for the purpose of using those funds in a post-Proposition 34 election."

The statement further said it is urging the passage of a bill pending in the Legislature that would

apply the \$21,200 limit to committees formed before the law took effect.

The commission also indicated in its statement that no recall candidate had solicited its advice about the issue.

Tom Hiltachk, a lawyer for the Schwarzenegger campaign, said it "seems pretty black and white" that Bustamante is improperly raising funds. He said the Schwarzenegger campaign has not decided whether to file a formal complaint.

But the Bustamante campaign on Friday differed with the interpretation from Hiltachk and the FPPC. Lance Olson, an attorney working for the Bustamante campaign, said the lieutenant governor has fully complied with finance laws and questioned the statement from the commission.

"I in fact have had a conversation with the executive director of the agency and confirmed that there is no question the FPPC regulations allow committees to raise funds in a pre-Proposition 34 committee," he said.

Bustamante also is raising money for a "No on Recall" committee that is a "ballot measure committee" that the commission has said is not bound by contribution limits.

About the Writer

The Bee's Alexa H. Bluth can be reached at (916) 326-5542 or abluth@sacbee.com.

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Absent actor bashed from all sides

Davis, Bustamante, McClintock assail Schwarzenegger

Zachary Coile, Chronicle Staff Writer
Monday, September 1, 2003
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URL: <http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2003/09/01/MN204340.DTL>

With actor Arnold Schwarzenegger sitting out the media frenzy of the recall race for a third straight day, his chief Republican rival blasted him as a tax-and-spend liberal, while top Democrats called him anti-immigrant and a hypocrite for breaking a campaign promise not to accept special-interest money.

Gov. Gray Davis and Schwarzenegger's main opponents in the recall replacement election used the Sunday news shows to attack the GOP front-runner,

who has been mostly out of the public eye since revelations of group sex and drug use in a 1977 interview made headlines.

-- Davis criticized Schwarzenegger for accepting more than \$3 million in campaign contributions after pledging at the start of the race not to accept special-interest money.

-- Lt. Gov. Cruz Bustamante ripped into the Austrian-born actor for supporting Proposition 187, the anti-immigrant ballot measure, while also criticizing fellow Democrat Davis for not taking a harder stand against the 1994 initiative.

-- State Sen. Tom McClintock, who trails Schwarzenegger among GOP voters in polls, criticized the former bodybuilder for refusing to take a no-new-taxes pledge, while also contrasting his personal life in the 1970s by noting that "I didn't have as colorful a youth" as Schwarzenegger.

Davis also said Sen. Dianne Feinstein, D-Calif., would appear in two new television commercials that will be unveiled early this week, discussing her opposition to the recall and her support for the governor.

"She basically speaks to the problems of the recall and some of the positive work that I'm focusing on," Davis said.

With slightly more than five weeks before the recall election, the candidates sought to take advantage of the national media's fascination with the California election and the air time they provided.

Davis, who was stung by charges by Schwarzenegger over the weekend that he was pandering to Indian tribes, returned fire Sunday. He said the Republican candidate was being hypocritical by saying on the "Tonight Show" with Jay Leno that "I don't need to take money from anybody" -- and later accepting contributions up to the \$21,200 limit from land developers, high-tech executives, media moguls and others with business interests in California.

"Mr. Schwarzenegger promised not to take any money," Davis said on ABC's "This Week," "but now he's raising money with the best of them, so he's already broken that promise."

The Schwarzenegger campaign, however, noted the irony of Davis, who has been accused of "pay for play" politics, criticizing the campaign fund-raising of others. Schwarzenegger spokesman Sean Walsh, for example, pointed to media accounts of Davis asking the California Teachers' Association for \$1 million in contributions while in the governor's office.

"We are not taking money from people whose paychecks we sign," Walsh said.

Davis was still on the defensive for soliciting recommendations from gaming tribes about appointments to the California Gambling Control Commission, which regulates tribal casinos. The governor, who has received \$1.4 million in contributions from the tribes, insisted that he never promised the seats to the tribes and merely invited them to submit a list of potential candidates with experience as regulators.

"My whole life I've sought advice from consumers, from working people and from businesses on appointments I should make," Davis said. "I then make the appointment."

Bustamante, the leading Democratic replacement candidate, used appearances on two national news shows, "Late Edition" on CNN and "Face the Nation" on CBS,

to critique Schwarzenegger while also distancing himself from Davis.

The former Assembly speaker from Fresno sought to portray Schwarzenegger as anti-immigrant for supporting Prop. 187, the 1994 measure to deny services to illegal immigrants, which angered many Latinos and has since been largely voided by the courts. The ballot measure was pushed by former Gov. Pete Wilson,

who co-chairs Schwarzenegger's campaign.

"As far as I'm concerned, Arnold's going back to the same wedge-issue politics that his mentor Pete Wilson suggested to the state of California," Bustamante said on CNN's Late Edition.

But the state's No. 2 Democrat also pointed out that he had criticized Davis for not being aggressive enough to block the implementation of Proposition 187 in court -- which led to a major falling out between the two men.

Bustamante also had to play defense against recurring charges from conservatives that he has failed to distance himself from a Latino campus organization that has called for returning California and the Southwest to Mexico. Bustamante belonged to the group, called MEChA, as a student at California State University Fresno in the 1970s.

On Fox News Sunday, Bustamante was asked whether he supported one of the group's slogans -- "For the race everything, for those outside the race nothing." Bustamante would not comment specifically on the slogan but said he believes racial separatism is wrong.

The lieutenant governor also continues to face questions over his handling of his campaign

accounts. Under a loophole in state's campaign finance law, Proposition 34, Bustamante has been raising money in an old campaign account to use for his recall race.

But the state's Fair Political Practices Commission last week issued an opinion that such committees should not be used to fund recall-related activities. Bustamante said Sunday that he had retained a lawyer who had helped write Prop. 34 and was assured that his use of the old committee was legal. "We're following the rules," he said.

McClintock also appeared on the news shows, where he repeated his intention to stay in the race despite calls from some Republicans to drop out to help unify conservative support behind Schwarzenegger.

McClintock, who is a conservative favorite because of his fervent opposition to the car tax, criticized Schwarzenegger for refusing to take a no-new-tax pledge. Schwarzenegger has said he opposes new taxes but would not rule out a tax increase in case of a state emergency.

Schwarzenegger continues to suffer from the fallout from the 1977 Oui magazine interview. He has been sharply criticized by some women's groups, as well as by gay rights activists, for his repeated use of the word "fag" to describe homosexuals. He is also facing opposition from some conservatives, including the Rev. Lou Sheldon of the Traditional Values Coalition, who issued a memo to Republican assembly members this weekend urging them to hold off on endorsing Schwarzenegger until he apologizes for his "X-rated behavior."

"We must hear from Mr. Schwarzenegger if he has repented and repudiated these past sexually promiscuous acts," Sheldon wrote.

McClintock, however, suggested that Schwarzenegger's sex life and past drug use were not major campaign issues -- although he did so while taking a soft shot at Schwarzenegger's personal life.

"I admit I didn't have as colorful a youth as Arnold Schwarzenegger," McClintock said. "I think he was 29 when that interview was done. When I was 29, I was the Republican whip in the California state Assembly, serving my second term in the state Legislature. But I do believe that that interview is irrelevant to the policy discussions going on in California over the future direction of our state."

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